



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: MAY 01, 2023

IN THE MATTER OF:

Appeal Board No. 628063

PRESENT: RANDALL T. DOUGLAS, MEMBER

In Appeal Board Nos. 628063, 628064, 628065, the Commissioner of Labor appeals from the combined decisions of the Administrative Law Judge filed February 7, 2023, insofar as the decisions overruled the initial determinations, holding the claimant ineligible to receive benefits, effective September 12, 2022, through September 18, 2022, on the basis that the claimant did not comply with work search requirements; charging the claimant with an overpayment of \$504.00 in benefits recoverable pursuant to Labor Law § 597 (4); and reducing the

claimant's right to receive future benefits by eight effective days and charging a civil penalty of \$100.00 on the basis that the claimant made a willful misrepresentation to obtain benefits.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

The Board considered the arguments contained in the written statement submitted on behalf of the Commissioner of Labor.

Based on the record and testimony in this case, the Board makes the following

Our review of the record reveals that the case should be remanded to hold a further hearing. The record was not sufficiently developed on the initial determination of failure to comply with work search requirements. The parties should have another opportunity to submit additional testimony and other evidence on this issue.

At hearing, the claimant will offer additional testimony regarding the claimant handbook, whether the claimant had requested a claimant handbook, if not, why not, and whether the claimant had reviewed and read the handbook, including the work search requirements set forth therein. She will then offer detailed testimony regarding any work search performed from September 12, 2022, through September 18, 2022. Any documentary evidence related to such testimony, including a copy of the claimant handbook and documentary evidence of any work search performed during the period at issue, shall be produced at hearing for entrance into the record after an opportunity for comment and objection.

The Judge shall take any additional testimony and evidence necessary to complete the hearing.

Now, based on the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge, insofar as it overruled the initial determinations, holding the claimant ineligible to receive benefits, effective September 12, 2022, through September 18, 2022, on the basis that the claimant did not comply with work search requirements; charging the claimant with an overpayment of \$504.00 in benefits recoverable pursuant to Labor Law § 597 (4); and reducing the claimant's right to receive

future benefits by eight effective days and charging a civil penalty of \$100.00 on the basis that the claimant made a willful misrepresentation to obtain benefits, be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the rescinded issues ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the rescinded issues, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand

hearings, and which shall contain appropriate findings of fact and conclusions of law.

RANDALL T. DOUGLAS, MEMBER